

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WAYMO LLC,
Plaintiff,

v.

UBER TECHNOLOGIES, INC., et al.,
Defendants.

Case No. [17-cv-00939-WHA](#) (JSC)

**ORDER GRANTING IN PART AND
DENYING IN PART
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL**

Re: Dkt. Nos. 636, 655, 656

This Order addresses Plaintiff Waymo's motion to file under seal portions of its June 15, 2017 Letter Brief Regarding Privilege Issues ("Letter Brief") and Exhibits 1-3 and 13 to the Declaration of Kevin Smith ("Smith Declaration") (Dkt. No. 636.) After carefully considering the parties' submissions, the motion is GRANTED in part and DENIED in part.

Waymo requests to seal portions of its Letter Brief "because it contains information that Defendants have designated confidential." (*Id.* at 2.¹) As to Exhibits 1-3 and 13 to the Smith Declaration, components of Uber's privilege logs, Waymo explains that "Defendants have stated that they do not consider their privilege logs confidential, but nevertheless do not want their clients' email addresses made public. Accordingly, Waymo has filed Exhibits 1-3 and 13 to the Declaration of Kevin Smith completely under seal so Defendants can determine which email addresses, if any, merited sealing. Waymo takes no position as to the merits of sealing any of Defendants' material." (*Id.*) Waymo notes that "some, but not all, of the email addresses on Defendants' logs are already public because they are attorney work addresses, which can be accessed from the attorneys' respective firm websites." (*Id.*)

¹ Record citations are to material in the Electronic Case File ("ECF"); pinpoint citations are to the ECF-generated page numbers at the top of the documents.

Uber filed a Declaration in support of sealing (Dkt. No. 656), which narrowed the portions of the Letter Brief it believed were sealable. (Dkt. No. 655-2 at 2-3.) Uber argues that these portions “include details of a business agreement containing non-public, highly confidential information, including highly confidential business information relating to terms of the agreement, such as financial terms and conditions.” (Dkt. No. 656. at 2.) Uber argues “[d]isclosure of this information would allow competitors or counterparties to tailor negotiation strategy, including with respect to financial terms and conditions,” thus risking harm to Uber’s competitive standing. (*Id.*) Uber also argues that Exhibits 1-3 to the Smith Declaration should be sealed “to protect the privacy” of “certain high-ranking” Uber executives, as disclosure of their email addresses “could expose them to harm or harassment.” (*Id.* at 3.) For the proposition that the Exhibits should be sealed in their entirety, Uber cites *A.B. ex rel. W.F.B. v. San Francisco Unified School District*, where the Court granted sealing of the administrative record, which contained “sensitive educational and medical information . . . often in references too numerous to redact.” (*Id.*); No. C 07-4738 PJH, 2007 WL 2900527, *1 (N.D. Cal. Oct. 2, 2007).

The Court DENIES sealing of the red-outlined portions of the Letter Brief highlighted by Uber. (Dkt. No. 655-2 at 2-3.) This information is not privileged, protectable as a trade secret or otherwise entitled to protection under the law. *See* Civil L.R. 79-5(b). The Court also DENIES IN PART sealing of Exhibits 1-3 of the Smith Declaration in their entirety. These addresses do not appear difficult to figure out; however, if Uber believes they are not publicly known it may redact the email addresses of Uber executives from the privilege log and otherwise file the privilege log in the public docket. Finally, the Court DENIES sealing of Exhibit 13 of the Smith Declaration, which Uber did not mention in its Declaration in support of sealing. (Dkt. No. 656.)

The parties shall file public versions of their briefs and exhibits consistent with this Order by no later than July 4, 2017. *See* N.D. Cal. Civ. L.R. 79-5(f)(3).

This Order disposes of Docket No. 633 and 636.

IT IS SO ORDERED.

Dated: June 27, 2017


JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California

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